



April 24, 2013

Mr. Tom Bachman, Assistant City Manager
City of West Covina
1444 W. Garvey Ave.
West Covina, CA 91790

Dear Mr. Bachman:

Subject: Other Funds and Accounts Due Diligence Review

This letter supersedes the California Department of Finance's (Finance) original Other Funds and Accounts (OFA) Due Diligence Review (DDR) determination letter dated March 18, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of West Covina (Agency) submitted an oversight board approved OFA DDR to Finance on January 11, 2013. The purpose of the review was to determine the amount of cash and cash equivalents available for distribution to the affected taxing entities. Finance issued an OFA DDR determination letter on March 18, 2013. Subsequently, the Agency requested a Meet and Confer session on one or more items adjusted by Finance. The Meet and Confer session was held on April 4, 2013.

Based on a review of additional information and documentation provided to Finance during the Meet and Confer process, Finance has completed its review of those specific items being disputed. Specifically, the following adjustments were made:

- The transfer for repayments of principal and interest totaling \$12.2 million is disallowed. Documentation provided by the Agency indicates the transferred amounts to the City of West Covina (City) occurred from January 2011 through January 2012. Per HSC section 34179.5 (c) (2), the dollar value of assets and cash transferred to the city, county, or city and county that formed the former RDA by the former redevelopment agency or successor agency between January 1, 2011 through June 30, 2012 must be evidenced by documentation of the enforceable obligation that required the transfer. HSC section 34179.5 states "enforceable obligation" includes any of the items listed in subdivision (d) of section 34171, contracts detailing specific work that were entered into by the former redevelopment agency prior to June 28, 2011 with a third party other than the city, county, or city and county that created the former RDA.

The transfers were not made pursuant to an enforceable obligation and are not permitted. During the meet and confer, the Agency asserted the funds were paid to the City on the dates indicated in the DDR; however, the Oversight Board approved DDR states the funds are with the Agency and are restricted until Finance issues a Finding of Completion to the Agency, at which time the Agency will disburse the funds to the City. Therefore, the available balance for distribution will be increased by \$12.2 million.

The Agency did not object to the following adjustment made by Finance during the Meet and Confer process. HSC section 34179.6 (d) authorizes Finance to make adjustments. We maintain that the following adjustment is appropriate:

- Your request to retain \$680,368 related to ROPS 1 expenditures is partially denied. Included in this balance are pass through payments totaling \$625,492, bond fiscal agent fees totaling \$14,896, and arbitrage liability fees totaling \$39,980. Per discussion with Agency staff; the county auditor controller has since paid \$456,809 of the pass through payments, thus leaving a pass through balance of only \$168,683. Therefore, Finance is allowing the retention of \$223,559 (\$14,896 bond fiscal agent fees, \$39,980 arbitrage liability, and \$168,683 unpaid pass through). As such, the OFA balance available for distribution to the taxing entities will be adjusted by \$456,809.

The Agency's OFA balance available for distribution to the affected taxing entities is \$11,578,351. (See table below).

OFA Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ (1,083,989)
Finance Adjustments	
Add:	
Disallowed transfers:	\$ 12,205,531
Requested retained balance not supported:	456,809
Total OFA available to be distributed:	\$ 11,578,351

This is Finance's final determination of the OFA balances available for distribution to the taxing entities. HSC section 34179.6 (f) requires successor agencies to transmit to the county auditor-controller the amount of funds identified in the above table within five working days, plus any interest those sums accumulated while in the possession of the recipient. Upon submission of payment, it is requested you provide proof of payment to Finance within five business days.

If funds identified for transmission are in the possession of the successor agency, and if the successor agency is operated by the city or county that created the former redevelopment agency, then failure to transmit the identified funds may result in offsets to the city's or the county's sales and use tax allocation, as well as its property tax allocation. If funds identified for transmission are in the possession of another taxing entity, the successor agency is required to take diligent efforts to recover such funds. A failure to recover and remit those funds may result in offsets to the other taxing entity's sales and use tax allocation or to its property tax allocation. If funds identified for transmission are in the possession of a private entity, HSC 34179.6 (h) (1) (B) states that any remittance related to unallowable transfers to a private party may also be subject to a 10 percent penalty if not remitted within 60 days.

Failure to transmit the identified funds will also prevent the Agency from being able to receive a finding of completion from Finance. Without a finding of completion, the Agency will be unable to take advantage of the provisions detailed in HSC section 34191.4. Specifically, these provisions allow certain loan agreements between the former redevelopment agency (RDA) and the city, county, or city and county that created the RDA to be considered enforceable obligations. These provisions also allow certain bond proceeds to be used for the purposes in which they were sold and allows for the transfer of real property and interests into the

Community Redevelopment Property Trust Fund once Finance approves the Agency's long-range property management plan.

In addition to the consequences above, willful failure to return assets that were deemed an unallowable transfer or failure to remit the funds identified above could expose certain individuals to criminal penalties under existing law.

Pursuant to HSC sections 34167.5 and 34178.8, the California State Controller's Office (Controller) has the authority to claw back assets that were inappropriately transferred to the city, county, or any other public agency. Determinations outlined in this letter do not in any way eliminate the Controller's authority.

Please direct inquiries to Evelyn Suess, Supervisor or Danielle Brandon, Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Ms. Denise Bates, Accounting Manager, City of West Covina
Ms. Kristina Burns, Manager, Los Angeles County Department of Auditor-Controller
California State Controller's Office